REMARKS

Reconsideration is requested in view of the above amendments and the following remarks. Claims 1, 3, 6, 8-11, 14, 16-17, 19, 21 and 26 have been revised. New claims 28-30 have been added. Support for the revisions and new claims can be found in, e.g., Fig. 1 and page 15, line 10 to page 17, line 8 of the present specification, among other places. Claim 25 has been rewritten to depend from claim 1. Claims 1, 3, 5-26 and 28-30 are pending in the application.

Claim Rejections – 35 USC § 112

Claims 1, 3 and 5-26 are rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse the rejection. Claims 1, 3, 6, 8-11, 14, 16-17, 19 and 21 have been editorially revised to address the issues. Claim 25 has been revised to depend from claim 1, rendering the rejection moot as to claim 25. Applicants are not conceding the correctness of the rejection.

With respect to the "range being defined by granting" and "pressure that is set" in claim 1, Applicants respectfully submit that these features define properties possessed by the lancing apparatus and thus are definite. Defining a product by its properties is acceptable under US practice. See Gemtron v. Saint-Gobain, App. 2009-1001 (Fed. Cir. 2009).

With respect to "the pressure detector" in claim 3, Applicants respectfully submit that antecedent basis is provided by "a pressure detector" in line 2 of claim 3.

With respect to "an upper limit and a lower limit which are set . . . . " in claim 5, Applicants respectfully submit that this feature defines a property possessed by the lancing apparatus and thus is definite.

With respect to claim 18, Applicants assume that the rejection was intended to be made to claim 19. Claim 19 has been editorially revised. Applicants are not conceding the correctness of the rejection.

With respect to the "range being defined by granting" in claim 21, Applicants respectfully submit that this feature defines a property possessed by the lancing apparatus and thus is definite.

With respect to "setting . . . is performed" in claim 22, Applicants respectfully submit that this feature defines a property possessed by the lancing apparatus and thus is definite.

With respect to the "pressure is set" in claim 23, Applicants respectfully submit that this feature defines a property possessed by the lancing apparatus and thus is definite.

With respect to "an upper limit and a lower limit which are set" in claim 24, Applicants respectfully submit that this feature defines a property possessed by the lancing apparatus and thus is definite.

With respect to the "range is defined by granting . . . which is set" in claim 26, Applicants respectfully submit that this feature defines a property possessed by the blood sampling apparatus and thus is definite.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claim Rejections – 35 USC § 103

Claims 1, 3, 5-6, 9-10, 17-20, 25-26 are rejected under 35 USC § 103(a) as being unpatentable over Takinami et al. (WO 02/07599) in view of Wagner (US 4,600,403) and Sesekura (US 5,891,053). Applicants respectfully traverse this rejection. Claim 25 has been revised to depend from claim 1.

Claim 1 requires a pressure controller that is configured to cooperate with a height detector and to execute a control so as to maintain a pressure inside a cylindrical portion within a specific range, where the control by the pressure controller is executed based on detection of the height detector that a skin has been raised to a predetermined height.

In a conventional lancing apparatus used for sampling a body fluid out of a skin, when a pump is used for generating a negative pressure inside the lancing apparatus to bring an end of the lancing apparatus into contact with a skin, the negative pressure may not appropriately act on the skin. For example, if a gap is left between the end of the lancing apparatus and the skin, the skin might not swell sufficiently. Thus, when an

insertion element is moved forward to insert into the skin, the insertion element may not reach the skin, or may not be inserted deep enough to provoke sufficient bleeding (see, e.g., page 2, line 16 to page 3, line 5 of the present specification and Fig. 18B, among other places). On the other hand, when the pressure in the lancing apparatus is too high, the skin may intrude too much into the end of the lancing apparatus, causing the insertion element to be inserted too deep into the skin. The present height detector cooperates with the pressure controller, which executes a control based on detection of the height detector that a skin has been raised to a predetermined height (see, page 3, lines 5-23 of the present specification, among other places).

As acknowledged on page 9 of the Office Action, Takinami et al. do not teach or suggest a pressure controller as required by claim 1. Wagner does not remedy the deficiencies of Takimami et al. Instead, Wagner merely discusses a contact rod 112 that is positioned between cannula attachment cones and is actuated by the skin that has been drawn up by vacuum (see Wagner, col. 14, lines 39-41) and as a result of the detection of the skin, a material is injected into the skin through a cannula (see Wagner, col. 7, lines 34-57). Wagner provides no teachings or suggestions as to a pressure controller that is configured to cooperate with a height detector and to execute a control so as to maintain a pressure inside a cylindrical portion within a specific range, where the control by the pressure controller is executed based on detection of the height detector that a skin has been raised to a predetermined height, as required by claim 1. In fact, the contact rod 112 in Wagner is merely used for triggering injection of a material into a skin. Applicants therefore respectfully contend that Wagner fails to render claim 1 obvious since Wagner fails to provide any motivation to provide a pressure controller cooperating with a height detector in a manner the rejection requires to meet claim 1. Sesekura does not remedy the deficiencies of Takinami et al. and Wagner.

For at least these reasons, claim 1 is patentable over Takinami et al. in view of Wagner and Sesekura. Claims 3, 5-6, 9-10, 17-20 and 25 depend ultimately from claim 1 and are patentable along with claim 1 and need not be separately distinguished at this time.

Claim 26 is patentable over the cited references for reasons similar to those discussed above regarding claim 1. Claim 26 requires a controller that is configured to cooperate with a height detector for executing a control so as to maintain a pressure inside a cylindrical portion within a specific range, where the control by the controller is executed based on detection of the height detector that a skin has been raised to a predetermined height. The present record fails to teach or suggest such an arrangement. For at least this reason, claim 26 is patentable over the references on the record.

Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims.

Claims 7 and 8 are rejected under 35 USC § 103(a) as being unpatentable over Takinami et al. in view of Wagner and Sesekura, and further in view of Hodges et al. (US 6,612,111). Applicants respectfully traverse this rejection. Claims 7 and 8 depend ultimately from claim 1 and are patentable over Takinami et al. in view of Wagner and Sesekura, and further in view of Hodges et al. for at least the same reasons discussed above regarding claims 1, 3, 5-6, 9-10 and 17-20. Hodges et al. do not remedy the deficiencies of Takinami et al., Wagner and Sesekura. Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims.

Claim 11 is rejected under 35 USC § 103(a) as being unpatentable over Takinami et al. in view of Wagner and Sesekura, and further in view of Armeniades et al. (US 4,548,205). Applicants respectfully traverse this rejection. Claim 11 depends ultimately from claim 1 and is patentable over Takinami et al. in view of Wagner and Sesekura, and further in view of Armeniades et al. for at least the same reasons discussed above regarding claims 1, 3, 5-6, 9-10 and 17-20. Armeniades et al. do not remedy the deficiencies of Takinami et al., Wagner and Sesekura. Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claim.

Claims 12-16 are rejected under 35 USC § 103(a) as being unpatentable over Takinami et al. in view of Wagner and Sesekura, and further in view of Feingold (US

6,083,236). Applicants respectfully traverse this rejection. Claims 12-16 depend ultimately from claim 1 and are patentable over Takinami et al. in view of Wagner and Sesekura, and further in view of Feingold for at least the same reasons discussed above regarding claims 1, 3, 5-6, 9-10 and 17-20. Feingold does not remedy the deficiencies of Takinami et al., Wagner and Sesekura. Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims.

Claims 21-24 are not rejected for art issues and thus should be patentable if the 35 USC § 112 rejection has been overcome.

New claims 29 and 30 are patentable along with claims 1 and 26, respectively. In addition, Applicants submit that the features of claims 29 and 30, e.g., the pressure controller remaining inactive until the height detector detects that the skin has been raised to the predetermined height inside the cylindrical portion, are not seen in or suggested by the references of record.

In view of the above, favorable reconsideration in the form of a notice of allowance is respectfully requested. Any questions regarding this communication can be directed to the undersigned attorney, Douglas P. Mueller, Reg. No. 30,300, at (612) 455-3804.

Respectfully submitted,

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Dated: August 5, 2009

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